

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

REFAEL KLEIN,

Plaintiff,

-against-

STACEY R. B. AICHER,

Defendant.

**REPLY DECLARATION OF  
THOMAS S. D'ANTONIO**

Civil Action No.: 19-CV-9172

THOMAS S. D'ANTONIO, an attorney admitted to practice before the bar of this Court, declares that the following statements are true and correct:

1. I am a member of the firm of Ward Greenberg Heller & Reidy LLP, attorneys for defendant Stacey R. B. Aicher ("Stacey" or "Ms. Aicher"). I have had primary responsibility for Ms. Aicher's legal representation since the outset of this case, and am personally familiar with the facts recited in this Affidavit.

2. I submit this Reply Declaration in further support of Stacey's motion seeking a contempt Order against plaintiff Klein, and related relief as specified in Docket #88.

***Mr. Klein's Opposition is Specious***

3. In his opposition, plaintiff Klein does not dispute that he has been, and remains, in contempt of the Court's prior Orders, dating back to July of this year, compelling him to pay \$74,160 in sanctions for his frivolous litigation conduct.

4. His purported "justification," asserted for the very first time in the filings submitted late last Wednesday evening, is that he "does not have the financial ability to pay the Court's sanction award." *See* Docket # 94, 96.

5. More specifically, he claims that:

- a. he retired from his position at Landmark Ventures (USA) Inc. in 2018. Docket # 94 at ¶ 7;
- b. he has a mere \$178 in his only bank account, he receives no income other than Social Security benefits, and he has no retirement account or any investments of any kind. Docket # 94 at ¶¶ 6-11;
- c. his only asset of significance is his home, which he claims has an outstanding mortgage of \$81,077. Docket # 94 at ¶¶ 8, 9-14;
- d. he relies on his family members for basic necessities of life, and rarely travels outside his home due to his seriously compromised health. Docket # 94 at ¶¶ 5, 8.

6. As a result of this allegedly impoverished status, plaintiff Klein presumably seeks to be excused from his failure to obey the Court's various Orders.

7. His claim of financial destitution, however, is seriously inconsistent with publicly available information, as discussed in paragraphs 9-19, below. Before turning to those several "disconnects," it is important to note that plaintiff Klein is hardly a victim here. He *chose* to undertake, and pursue, frivolous litigation. He had both the 21 day window afforded him under Rule 11, and months thereafter, to abandon the frivolous claims. The victim—the *only* victim—of plaintiff's misconduct is Stacey Aicher.

8. Plaintiff Klein, purely and simply, is seeking to wriggle free from the consequences of his misconduct, and he should not be permitted to evade accountability to Stacey, or to this Court.

***Plaintiff Klein's Cries of Poverty do not Square with Publicly Available Facts***

9. The picture of frailty and poverty plaintiff Klein seeks to paint in his opposition papers differs rather markedly from various pieces of publicly available information, and this disparity calls into serious question the *bona fides* of plaintiff's representations to this Court.

10. For instance, while plaintiff Klein claims that he “retired” in 2018 from Landmark Ventures, that firm’s website *still* identifies him as its Managing Director, and as its most senior officer. See <https://www.landmarkventures.com/team-item/ralph-klein> [last checked November 9, 2020, and attached for the Court’s convenience as Exhibit C<sup>1</sup>].

11. One is hard pressed to determine how an entity which counsels and supports cutting-edge technology companies that offer “best-in-class technology solutions” and that boasts “executing complex transactions across the Innovation Economy,” “accelerating direct sales innovations for best-in-class technology companies” and “promoting dialogue and partnerships through prestigious industry summits,”<sup>2</sup> can be incapable of figuring out how to update its own website, to reflect the purported retirement of its founder and most senior executive.

12. Plaintiff Klein also neglects to mention whether he continues to have an ownership interest in Landmark Ventures or any of its related entities, if that interest was transferred, or the financial terms of any such transition.

13. What is undeniable is that the firm currently boasts a team of 33 professionals (including plaintiff Klein), with a “network of contacts across the Fortune 500 and investment communities,” and with offices on Park Avenue South and in Tel Aviv. See <https://www.landmarkventures.com/who-we-are/team>; <https://www.landmarkventures.com/contact-us> [last checked November 9, 2020].<sup>3</sup>

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<sup>1</sup> The exhibits introduced in this Declaration will commence with Exhibit C because Exhibits A and B were introduced in the moving Declaration.

<sup>2</sup> See <https://www.landmarkventures.com/what-we-do/investment-banking>; <https://www.landmarkventures.com/what-we-do/business-development>; <https://www.landmarkventures.com/what-we-do/strategic-events> [all last checked November 9, 2020].

<sup>3</sup> The web page listing the “team” also indicates that the Landmark Ventures’ General Partner, and the Managing Director/CEO of Landmark Ventures (Israel), are Zeev and Ori Klein. These corporate officers are, upon information and belief, the children of Refael Klein. Plaintiff Klein neglects to discuss what, if any, financial benefits he may

14. That same Landmark Ventures website also continues to describe plaintiff Klein as a “shareholder, consultant and/or Advisory Board member for several technology companies, including Appfluent, ChemConnect, Collation, G-Log, Ketera, IntraLinks, Ounce Labs, NetManage, Radware, PowerPaper, Preventsys and VFA.” *See* Exhibit C. None of these holdings, ownership interests, or relationships were mentioned by the purportedly destitute plaintiff Klein in his submission to the Court.

15. Nor did the “retired” and allegedly penniless Mr. Klein mention that the New York State Department of State continues to list him as the Chief Executive Officer of Landmark Ventures (Israel) Inc. (*see* Exhibit D), and to list the address for receipt of service for Landmark Ventures (USA) Inc. as 505 North Village Avenue in Rockville Centre—which just so happens to be plaintiff Klein’s home address. (*See* Exhibit E).

16. “R. Klein” of 505 North Village Avenue in Rockville Centre is also listed as the Chief Executive Officer of Petronet International Corp. (*see* Exhibit F), and “Ralph Klein” of 505 North Village Avenue in Rockville Centre is listed as eligible to receive service for American Friends of Kav-Or. (*See* Exhibit G).

17. These various corporate interests and involvements are at odds with plaintiff Klein’s cries of poverty, and suggest that such self-serving contentions may well be factually unsupported.

18. His personal holdings also appear to be of substantial worth.

19. As an example, the Nassau County Assessor’s Office has assessed the value of plaintiff Klein’s home at 505 North Village Avenue in the Village of Rockville Centre (Nassau County) to be in excess of \$800,000 (*see* Exhibit H), while the mortgage statement he submitted

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have derived (or that he may continue to derive) from any intergenerational transfer of corporate responsibility or equity.



reflects a balance of approximately \$81,000. This suggests that plaintiff Klein has roughly \$720,000 in equity in that home.

***Relief Sought***

20. Ms. Aicher recognizes that Mr. Klein's ability to pay, and the nature and extent of his holdings (in his own name or those in which he has a beneficial interest) cannot directly be resolved on the papers. However, the information above is intended to suggest that the true facts may well not square with Mr. Klein's self-serving claims of sudden penury.

21. Among the branches of relief sought by Stacey Aicher on this contempt motion, that may allow counsel to delve into the legitimacy of plaintiff Klein's representations in this regard, include:

- a. having the previously assessed sanction of \$74,160, plus interest from July 29, 2020, embodied in a Judgment of this Court;
- b. awarding a supplemental sanction against plaintiff Klein, for the costs incurred in connection with this contempt motion. As of October 21, 2020, that supplemental amount totaled \$11,232.79 (*see* Docket # 90), and to that amount should be added costs incurred in connection with this reply to the contempt motion. Between October 30 and November 6, this additional amount totals \$3,240 for 9.9 hours of Molly Spakowski's time and 1.3 hours of mine (*see* Exhibit I), together with an additional amount of \$1,580, which was incurred today and reflects 3.3 hours of my time, and 1.4 hours of Ms. Spakowski's time.
- c. The total supplemental sanctions award sought thus is \$16,052.79 (\$11,232.79 + \$3,240 + \$1,580), and as to that supplemental sanctions award defendant Aicher also requests that it be embodied in a Judgment.
- d. If that relief is granted, the Judgment enforcement mechanisms available to Ms. Aicher can be employed to test the legitimacy of plaintiff Klein's claims of personal poverty.
- e. Of course, should the Court wish to employ a separate or additional process to directly test the legitimacy of Mr. Klein's claims, such as an evidentiary hearing perhaps preceded by sworn disclosures and depositions, we defer to this Court's sound judgment and its discretion.

22. In all events, Ms. Aicher requests such relief on this contempt application as will ensure plaintiff's accountability, and such additional relief as this Court deems proper to secure compliance by a decidedly non-compliant litigant.

Dated: November 9, 2020

s/ Thomas S. D'Antonio  
Thomas S. D'Antonio (TSD-2927)

# EXHIBIT C

[WHO WE ARE](#)[WHAT WE I](#)

## Ralph Klein

Managing Director

[< Back to team](#)

“Make everything as  
simple as possible, but  
not simpler.”

*Albert Einstein*

Since the early 1990's, Ralph has been active as a technology visionary working with high-tech firms on product sales and market penetration across key vertical markets. Ralph Klein's background includes 30 years in the chemical and plastics industry focused on trading, distribution and management activities. Ralph worked with the largest international trading firms including positions as Director of Trading at ICC Corp., Director or International Sales at ICD Group and Managing Director of PlexChem (Hong Kong).

As a member of the founding team of Landmark Ventures, Ralph is an active consultant and advisor for numerous high-tech companies on their management, operations, market strategy and Fortune 500 client development activities.

Ralph has been involved as a Advisory Board member, consultant and shareholder for several technology companies including Appfluent, ChemConnect, Collation, G-Log,



Ketera, IntraLinks, Ounce Labs, NetManage,  
Radware, PowerPaper, Preventsys and VFA.

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# EXHIBIT D

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 5, 2020.

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Selected Entity Name: LANDMARK VENTURES (ISRAEL) INC.

Selected Entity Status Information

**Current Entity Name:** LANDMARK VENTURES (ISRAEL) INC.

**DOS ID #:** 4483383

**Initial DOS Filing Date:** NOVEMBER 06, 2013

**County:** NASSAU

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC BUSINESS CORPORATION

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

LANDMARK VENTURES (ISRAEL) INC.  
505 NORTH VILLAGE AVENUE  
ROCKVILLE CENTRE, NEW YORK, 11570

**Chief Executive Officer**

REFAEL KLEIN  
505 N. VILLAGE AVENUE  
ROCKVILLE CENTRE, NEW YORK, 11570

**Principal Executive Office**

LANDMARK VENTURES (ISRAEL) INC.  
505 N. VILLAGE AVENUE  
ROCKVILLE CENTRE, NEW YORK, 11570

**Registered Agent**

NONE

This office does not record information regarding the  
names and addresses of officers, shareholders or

directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

| # of Shares | Type of Stock | \$ Value per Share |
|-------------|---------------|--------------------|
| 200         | No Par Value  |                    |

\*Stock information is applicable to domestic business corporations.

#### Name History

| Filing Date  | Name Type | Entity Name                     |
|--------------|-----------|---------------------------------|
| NOV 06, 2013 | Actual    | LANDMARK VENTURES (ISRAEL) INC. |

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# EXHIBIT E

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 5, 2020.

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Selected Entity Name: LANDMARK VENTURES (USA) INC.

Selected Entity Status Information

**Current Entity Name:** LANDMARK VENTURES (USA) INC.

**DOS ID #:** 4483391

**Initial DOS Filing Date:** NOVEMBER 06, 2013

**County:** NASSAU

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC BUSINESS CORPORATION

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

LANDMARK VENTURES (USA) INC.  
505 NORTH VILLAGE AVENUE  
ROCKVILLE CENTRE, NEW YORK, 11570

**Chief Executive Officer**

ZEEV KLEIN  
475 PARK AVENUE SOUTH  
25TH FLOOR  
NEW YORK, NEW YORK, 10016

**Principal Executive Office**

LANDMARK VENTURES (USA) INC.  
475 PARK AVENUE SOUTH  
25TH FLOOR  
NEW YORK, NEW YORK, 10016

**Registered Agent**

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

| # of Shares | Type of Stock | \$ Value per Share |
|-------------|---------------|--------------------|
| 200         | No Par Value  |                    |

\*Stock information is applicable to domestic business corporations.

#### Name History

| Filing Date  | Name Type | Entity Name                  |
|--------------|-----------|------------------------------|
| NOV 06, 2013 | Actual    | LANDMARK VENTURES (USA) INC. |

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

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# EXHIBIT F



# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 5, 2020.

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Selected Entity Name: PETRONET INTERNATIONAL CORP.

Selected Entity Status Information

**Current Entity Name:** PETRONET INTERNATIONAL CORP.

**DOS ID #:** 1973041

**Initial DOS Filing Date:** NOVEMBER 13, 1995

**County:** NASSAU

**Jurisdiction:** DELAWARE

**Entity Type:** FOREIGN BUSINESS CORPORATION

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

PETRONET INTERNATIONAL CORP.

505 N. VILLAGE AVE.

ROCKVILLE CENTRE, NEW YORK, 11570

**Chief Executive Officer**

R. KLEIN

505 N. VILLAGE AVE.

ROCKVILLE CENTRE, NEW YORK, 11570

**Principal Executive Office**

PETRONET INTERNATIONAL CORP.

505 N. VILLAGE AVE.

ROCKVILLE CENTRE, NEW YORK, 11570

**Registered Agent**

RAFFI KLEIN

505 N. VILLAGE AVENUE

ROCKVILLE CENTRE, NEW YORK, 11570

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

| # of Shares              | Type of Stock | \$ Value per Share |
|--------------------------|---------------|--------------------|
| No Information Available |               |                    |

\*Stock information is applicable to domestic business corporations.

#### Name History

| Filing Date  | Name Type | Entity Name                  |
|--------------|-----------|------------------------------|
| NOV 13, 1995 | Actual    | PETRONET INTERNATIONAL CORP. |

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# EXHIBIT G

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 5, 2020.

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Selected Entity Name: AMERICAN FRIENDS OF KAV-OR, INC.

Selected Entity Status Information

**Current Entity Name:** AMERICAN FRIENDS OF KAV-OR, INC.

**DOS ID #:** 3515237

**Initial DOS Filing Date:** MAY 10, 2007

**County:** NEW YORK

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC NOT-FOR-PROFIT CORPORATION

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

RALPH KLEIN

505 NORTH VILLAGE AVE

ROCKVILLE CENTER, NEW YORK, 11570

**Registered Agent**

NONE

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**\*Stock Information**



| # of Shares | Type of Stock | \$ Value per Share |
|-------------|---------------|--------------------|
|-------------|---------------|--------------------|

No Information Available

\*Stock information is applicable to domestic business corporations.

### Name History

| Filing Date  | Name Type | Entity Name                      |
|--------------|-----------|----------------------------------|
| MAY 10, 2007 | Actual    | AMERICAN FRIENDS OF KAV-OR, INC. |

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# EXHIBIT H

Your property has been valued using market data from similar properties that sold in your area. Sales prices were **time-adjusted** to the end of the period, December 31, 2018, as if they were sold on that date. The **time-adjusted sales price** reflects market conditions on that date.

Physical Address 505 VILLAGE AVE ROCKVILLE CENTRE, NY 11570

**Property Identifier** 38171 01100

Economic Unit Type

Style Colonial

Year Built & Depreciation 1930-93.45

Total Floor Area 2788

Quality Grade B-

Bathrooms & Fixtures 3-0-9

Land Size 7700

Market Area 1

Neighborhood Rockville Centre-127

Percent Complete 1



Note: Land size reflects total Economic Unit.

**Current Land** \$288,000

Current Improvement \$519,000

**Total Value\*** \$807,000

\* The values represent the Tentative value for the 2021 tax year.

# EXHIBIT I

11/9/2020

Ward Greenberg Heller & Reidy LLP  
WGHR Pre-bill Worksheet

Full Name: AICHER, STACEY - REFALE KLEIN TO PAY BIL

\*\* RAFAEL KLEIN COURT ORDERED TO PAY BILL \*\*

31 Nottingham Road  
Rockville Center, NY

Bills to: Rafael Klein Paying bill

Phone 516-996-8106 Fax  
Home OtherIn Ref To Klein, Refael  
v. Stacey R.B. AicherSup Attorney TSD  
State  
Matter ID 1838-0001  
Engagement Type HLC  
Last Bill 8/5/2020

Balance in Trust Account: \$0.00

Date Timekeeper

| ID                   | Activity  | Rate     | Hours | Amount   |
|----------------------|---|----------|-------|----------|
| 10/30/2020<br>615302 | TSD<br>BW Billable Work<br>E-mail update to S. Aicher regarding mandate filed in response to withdrawal of appeal and order setting timeline for motion for contempt, likely next steps.  | \$360.00 | 0.30  | 108.00   |
| 615265               | MFS<br>BW Billable Work<br>Review court's order regarding schedule for response to contempt motion and communicate with T. D'Antonio and S. Aicher regarding same.  | \$280.00 | 0.10  | 28.00    |
| 11/5/2020<br>616962  | TSD<br>BW Billable Work<br>E-mail exchanges with S. Aicher, M. Spakowski regarding opposition papers and potential reply. Follow up telephone conference regarding points to make in reply.   | \$360.00 | 1.00  | 360.00   |
| 617361               | MFS<br>BW Billable Work<br>Confer with T. D'Antonio and S. Aicher via email regarding Klein's opposition to motion for contempt, claims therein, and support to prove or disprove those claims (.4). Conduct preliminary background research on Klein, including employment, assets, social media, and other pertinent information (2.8). Confer with T. D'Antonio via telephone regarding Klein's opposition to motion for contempt claiming destitution, background on Klein, and strategy for reply (1). | \$280.00 | 4.20  | 1,176.00 |

11/9/2020

Ward Greenberg Heller & Reidy LLP  
WGHR Pre-bill Worksheet

1838-0001

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|           |  |          |      |          |
|-----------|--|----------|------|----------|
| 11/6/2020 | MFS  | \$280.00 | 5.60 | 1,568.00 |
| 617362    | BW Billable Work   |          |      |          |
|           | Research former sanctions against Klein and his attorneys (1.4). Draft reply declaration in further support of motion for contempt, including collecting exhibits (4.2). |          |      |          |

|       |               |  |       |            |
|-------|---------------|--|-------|------------|
| TOTAL | Billable Fees |  | 11.20 | \$3,240.00 |
|-------|---------------|--|-------|------------|

|                                  |            |
|----------------------------------|------------|
| Total of Fees (Time Charges)     | \$3,240.00 |
| Total of Costs (Expense Charges) | \$0.00     |

|                   |                   |
|-------------------|-------------------|
| Total new charges | <u>\$3,240.00</u> |
|-------------------|-------------------|

## Timekeeper Summary

| Timekeeper | Rate     | Hours | Charges    |
|------------|----------|-------|------------|
| TSD        | \$360.00 | 1.30  | \$468.00   |
| MFS        | \$280.00 | 9.90  | \$2,772.00 |

|                  |             |
|------------------|-------------|
| Previous Balance | \$74,160.00 |
|------------------|-------------|

## Outstanding Accounts Receivable

|          |       |             |
|----------|-------|-------------|
| 8/5/2020 | 88744 | \$74,160.00 |
|----------|-------|-------------|

|                   |                    |
|-------------------|--------------------|
| Total New Balance | <u>\$77,400.00</u> |
|-------------------|--------------------|